

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
HATTIESBURG DIVISION**

CHAUNCEY M. DEPREE, JR.

PLAINTIFF

v.

Civil Action No. 2:07cv185-KS-MTP

**MARTHA SAUNDERS, individually and as
President of the University of Southern Mississippi, et al.**

DEFENDANTS

ORDER

THIS MATTER is before the court on an Unopposed Motion to Amend Scheduling Order [158] filed by Defendant Dr. Martha Saunders and a Motion Seeking Leave to Take Trial Depositions [134] filed by Plaintiff. Having reviewed the submissions of the parties and having heard the arguments of counsel during a telephonic status conference held on April 16, 2010, the court finds that the motions should be granted as set forth below.

Defendant seeks to amend the Amended Case Management Order [120] to extend the discovery deadline to May 12, 2010¹ in order to allow the parties to complete depositions, and seeks a corresponding extension of the motions deadline from May 7, 2010 to May 19, 2010. During the telephonic conference, the parties explained that there are two expert witnesses and at least one fact witness located out of state who need to be deposed, and Defendants still need to depose Plaintiff and certain of Plaintiff's witnesses. Based on the foregoing, and the fact that the court is allowing additional depositions as set forth below, the court finds that good cause has been shown² and, therefore, the Motion [158] should be granted.

In the Motion Seeking Leave to Take Trial Depositions [134], Plaintiff seeks leave to

¹ The current discovery deadline, including expert depositions, is April 23, 2010. *See* [120].

² *See* Fed. R. Civ. P. 16(a)(4) ("a schedule may be modified only for good cause and with the judge's consent.").

exceed the number of depositions previously authorized by the court³ in order to depose three individuals who will not be available at trial because they will be outside the subpoena power of the court.⁴ During the telephonic conference, Plaintiff clarified that these individuals are all former or soon-to-be former faculty members at the University of Southern Mississippi (USM) who either left USM during the pendency of this lawsuit or are about to leave the area. Plaintiff did not previously depose these individuals because he anticipated that they would still be at USM at the time of trial. The court finds that Plaintiff has established good cause and that the motion should be granted.

IT IS, THEREFORE, ORDERED that Defendant's Motion to Amend Scheduling Order [158] is granted. The discovery deadline shall be extended until May 12, 2010 and the deadline for the filing of dispositive or *Daubert* motions shall be extended until May 19, 2010. All other deadlines set forth in the Amended Case Management Order [120] shall remain unchanged and no further extensions shall be granted.

IT IS FURTHER ORDERED THAT Plaintiff's Motion Seeking Leave to Take Trial Depositions [134] is granted. Plaintiff may depose the three identified individuals by May 12, 2010. Any further relief sought by Plaintiff in the motion is denied.

SO ORDERED AND ADJUDGED this the 16th day of April, 2010.

s/ Michael T. Parker

United States Magistrate Judge

³ Following remand from the Fifth Circuit, the court entered an Amended Case Management Order [120] in which it authorized additional, limited discovery "to address the remaining narrow issues before the court." The court stated that the parties could, *inter alia*, re-depose Plaintiff and Dr. Saunders to address issues not previously covered in their initial depositions and could each take two additional depositions. *See id.*

⁴ During the telephonic status conference, Plaintiff identified these individuals as: Professors Dakhli, Mixon and Salter.